

CITY PLANNING COMMISSION
June 25, 2015

On Thursday, June 25, 2015 at 1:00 p.m., the City Planning Commission held a regular meeting in the 10th Floor Conference Room. Those in attendance were:

MEMBERS PRESENT: Messrs. Fraley (chairman), Thomas, Hales, Houchins, Neumann; Ms. Austin

MEMBER ABSENT: Ms. McClellan

STAFF/GUESTS: Messrs. Homewood, Newcomb, Melita, Simons, Whitney, Tajan, Blough; Mses. Pollock-Hart, McBride, Mouak

Regular Agenda:

Mr. Homewood introduced and welcomed their new planning intern Ms. Lindsey Hoolehan.

1. Architectural Review Board Items

▪ **Private Projects**

a) 2000 Church Street

Project Request: New construction of an 81-unit apartment building

Photographs, elevation drawings and material samples were presented for review. Ms. McBride stated that this is for the construction of an 81-unit apartment building that will be sited on a triangular-shaped lot that fronts Church Street between C Avenue and the railroad tracks. Staff noted that the Architectural Review Board recommended approval of this project as presented with the following conditions: a) That all of the windows have a black finish; b) that all of the windows are the same size; c) that the darker brick in the horizontal banding between the third/fourth and the fourth/fifth floors match the field brick on the body of the building; and d) that the large band above the first floor be more than three soldier courses.

Ms. McBride noted that the main entrance to the building is along the side of the building with the drive aisle off of Church Street. The applicant took their design pointers from the warehouse buildings that are in the area and also picked up on the train theme because of their proximity to the railroad tracks. A long canopy will go above the main entrance side. There is a multipurpose room towards the end. Parking is behind the building and the dumpster and vehicular turnaround face the railroad tracks.

Mr. Kevin Curran, Via Design Architects at 150 Randolph Street, Norfolk, stated that there

are three colors of brick. The main field brick is a red color, the main accent bands are a deeper red which will be padded in from the previous application and then there is a slightly lighter color to add a little accent in the recessed areas and the entry canopy is a deeper red color.

Ms. Kathy Talley, with Virginia Supportive Housing, Po Box 8585, Richmond, stated that the hallmark of their buildings is that they encourage folks who are formally homeless to be as independent as possible. Staff is in the building 24 hours a day. They provide case management in the building to engage people around recovery and health and wellness and when the time is right move them into a more independent setting.

Mr. Curran noted that there is a large community room and offices that serve the functions that VSH provides, as well as a small fitness room and a computer room.

On a motion made by Mr. Hales, seconded by Ms. Austin, the Commission approved the application as presented with Architectural Review Board recommendations.

2. 923-29 & 1001-07 E. Ocean View Avenue; 9640 Chesapeake Street; & 908-24 Hillside Avenue

Project Request: Windows (continued by ARB) exterior lighting approvals

This item was continued to the July 9th meeting.

3. 1917 Colley Avenue – Eco Dog

Project Request: Encroachment of an eco-friendly dog watering station.

Photographs and drawings were presented for review. Ms. McBride noted that the applicant will pilot an eco-friendly dog watering pump by using the runoff from their awning. They have an encroachment from their outdoor dining as noted on the site plan. Their system collects rainwater runoff through plantings inside of stone and carbon filtration and fills up a pickle barrel. The barrel is clad in reclaimed wood that is stained and a pump will fill up a ceramic mosaic bowl for the dogs. The Architectural Review Board recommended approval of the style, material and color as presented with the condition that subsequent installations come back for review since this is a prototype and they want to see how it will work out in case design changes have to be made.

Ms. Nicole Harp, applicant, 2905 Tait Terrace, Norfolk, stated that her project stems from the public art project that they had downtown Norfolk entitled “Citizen Artists” and one of the ideas was a dog water fountain. She also stated that she had the opportunity to see a different spin on dog watering locations during a trip to Annapolis and Old Town Alexandria where they have canine guzzlers. She came up with the idea to be green sustainable and adopt an environmentally friendly lifestyle by recycling rainwater through natural filtration. The fountain has a solar powered pump and a foot pedal to release water into the bowl. She noted that there is a tiny hole to drain the water from the bowl so there will be no standing water. There are two overflows in case there is too much rainwater and then it comes back and waters itself with the pump so the

plants will always be watered.

On a motion made by Dr. Neumann, seconded by Ms. Austin, the Commission approved the application as presented with Architectural Review Board recommendation that subsequent installations come back for review.

4. 1241 43rd Street – Global Friendship House

Project Request: New construction student housing for international students

Photographs, drawings and material samples were presented for review. Ms. McBride stated that the site is L-shaped with the building fronting on 43rd Street and they have some land at the rear for parking off of 42nd Street. The Architectural Review Board recommended approval as presented.

Matthew Pearson, with Hanbury Evans at 120 Atlantic Street, Norfolk, noted that the original floor plan that was approved in 2009 shows the first floor was all common space with a multipurpose room, living room, lobby, kitchen, office space, breakout space and laundry. The original unit type was four students sharing a bathroom. The rooms were like hotels except they were double occupancy and the floorplan layout has changed in the new design. The original elevations of the plan consisted of a four-story brick structure with a flat roof.

The new site plan is essentially the same. The building is a little shorter and a little narrower than the original plan. The multipurpose space was moved to the end of the building adjacent to an outside patio to provide an indoor/outdoor feel. The kitchens have been reduced from two to one that will serve the multipurpose space. There is a breakout space with public facility restrooms, offices and a two-bedroom staff apartment. Each floor will have a combination of double occupancy and single occupancy rooms, shared bathroom facilities, study area, laundry and a small kitchenette with cooking facilities and table.

Material selection for the building include: Standing seam metal roof (prefinished composite) and metal panels, standing seams 18-inch on center, tropical hardwood siding, brick and structural glazing.

Mr. Fraley inquired as to the location of the mechanical equipment. In response, Mr. Pearson stated that they have a full-package mechanical unit that will go on the roof and will be concealed to the degree possible, noting that they want a clean roof with no penetrations.

On a motion made by Mr. Hales, seconded by Ms. Austin, the Commission approved the application as presented.

5. Public Hearing Preview

The agenda and staff reports for the public hearing were distributed in the Commissioners' packets. Staff previewed same.

Reporter's note: The Commission moved out of the action component of the regular meeting at 2:25 p.m., at which time, the Commission reconvened in the City Council Chamber for the public hearing.

CONTINUED AGENDA:

1. 7-ELEVEN, for the following applications on property located at 735 East Ocean View Avenue:

- a) Special exception to operate a convenience store, 24-hours (with fuel sales).**
- b) Special exception for the sale of alcoholic beverages for off-premises consumption.**

Mr. Newcomb advised that this matter would be continued until the July 23, 2015 public hearing.

There being no opposition, Mr. Newcomb read a motion to continue the application until Thursday, July 23, 2015 at 2:30 p.m. in the City Council Chamber, which motion was adopted.

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2. FLIGHTS TASTING ROOM, for a special exception to operate an entertainment establishment with alcoholic beverages on property located at 824 West 21st Street.

Mr. Newcomb advised that this matter would be continued until the July 23, 2015 public hearing.

There being no opposition, Mr. Newcomb read a motion to continue the application until Thursday, July 23, 2015 at 2:30 p.m. in the City Council Chamber, which motion was adopted.

REGULAR AGENDA:

1. CITY PLANNING COMMISSION, for a text amendment to the City's *Zoning Ordinance* to amend portions of sections 24-4, 24-7, and 25-5.6 to codify procedures related to continuances and withdrawals of applications pending before the Commission.

Mr. Fraley stated that there is no opposition to this application.

There being no opposition, Mr. Newcomb read a motion to recommend that the text amendment be approved, which motion was adopted.

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2. CITY PLANNING COMMISSION, for a text amendment to the City's *Zoning Ordinance* to amend Table 11-33-A, "Table of Land Uses" for PCO-5 PTS (Pedestrian Commercial Overlay – Five Points) district, to add "Pawnshop" as a land use allowed by

special exception within the PCO 5-PTS district.

The applicant, Mr. Austin Loney, 2205 Jeffrey Drive, Norfolk, stated that their business has been located at 6177 Sewells Point Road for 19 years and they simply want to move their business one block down the road. He noted that with the PCO that's in place now it is not allowed, but they have been grandfathered in. He also stated that they have the support of the community and asked that the Commission support their move.

Speaking as a proponent, Mr. Charles Benson, 1525 Bayville Street, Norfolk, stated that he is a neighbor to the business. He also stated that the business is a family operation and that they are good people. He asked the Commission for favorable consideration on behalf of the brothers.

Also speaking as a proponent, Mr. William D. Jackson, Sr., 3709 Buckingham Street, Norfolk, stated that he is the treasurer of the Estabrook Civic League and he is here to express support from the members of the civic league for the request to add the word "Pawnshop" as a land use allowed by special exception within the PCO 5-Pts district. He stated that the 5-Pts Pedestrian Commercial Overlay is just three-tenths of a mile long and that it makes no sense for a pawnshop that's been in business for 19 years at the same location within the PCO to relocate their business just one block. He respectfully requested that the Commission follow staff's recommendation to allow the change as noted and that City Council do the same.

Mr. Fraley noted that the following persons are in favor of this application but do not wish to speak: Christine Loney, 2205 Jeffrey Drive; Ashley Baker, 225 A View Avenue #213; Donna Melgoza, 6131 Sewells Point Road; Jason Duffy, 8152 Camellia Road; Ava Duffy, 8152 Camellia Road; Shirley Reid, 780 Marvin Avenue; Caitlin Duffy, 7624 Bondale Avenue #114; Ann Wilson, 6145 Sewells Point Road; MaryEllen Ellis, 238 Woodview Avenue-Apt B; Shanae Gunter, 225 A View Avenue #213; and Sarah Bean, 3653 Amherst Avenue. He also noted that there is no opposition to the application.

There being no further comment, Mr. Newcomb read a motion to recommend that the zoning text amendment be approved, which motion was adopted.

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3. NORFOLK PAWN, for a special exception to operate a pawnshop on properties located at 6137-6145 Sewells Point Road.

Mr. Newcomb noted that staff provided a positive recommendation on this application.

Mr. Fraley noted that there is no opposition to this application and acknowledged that there are several people who signed up for the previous application have also signed up for this one.

There being no comment, Mr. Newcomb read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, which motion as adopted.

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4. SAM'S EAST, INC., for the following applications on property located at 7530 Tidewater Drive:

- a) Special exception to operate a convenience store, 24-hours (with fuel sales).**
- b) Special exception for the sale of alcoholic beverages for off-premises consumption.**

Mr. Newcomb noted that staff provided a positive recommendation on these applications.

Ms. Pollock-Hart stated that the site is located on the east side of Tidewater Drive and is currently developed with a Walmart and a Sam's Club. This is a small outparcel that fronts directly onto Tidewater Drive. She recalled that a special exception was granted to the site for a gas station in 2014. The applicant is proposing to modify that special exception by slightly modifying the site as was approved the first time, which was approved with a kiosk and six gas pumps. The applicant is now proposing to add two additional gas pumps for a total of eight and the kiosk will now become a small convenience store that would sell alcoholic beverages for off-premises consumption. The site can be accessed from Tidewater Drive by entering through the shopping center and then going onto the site. Staff recommended that this application be approved subject to conditions contained in the staff report and the applicant's agreement to not sell single-size servings.

Representing the applicant, Mr. Thomas Kleine, attorney with Troutman Sanders LLP - 222 Central Park Avenue, Virginia Beach, stated that a small convenience component to the fueling facility will provide customers the opportunity to purchase convenience items and to use restroom facilities. The building will be located towards the back part of the special exception site between the fuel pump area and the supercenter and will be oriented towards Tidewater Drive. He stated that their architect is working closely with staff to make sure that they have compatible architectural materials, colors and fifty-percent glass across the front of the building. He noted that the convenience store and fuel sales would be opened to the general public and not restricted solely to Sam's customers, although Sam's customers would have a discount on the gas.

Mr. Kleine stated that they are asking for this as a convenience to the customers as an accessory to this overall development that has changed so dramatically, which includes a Walmart, Sam's Club and shops that S.L. Nusbaum is in the process of developing as well. He further noted that this would not involve any change to the contours of the site. There will be no new access points off Tidewater Drive and no new accessway into it. He stated that he is aware of a concern with respect to alcohol sales at small convenience stores. They reached out to the Crossroads Civic League after seeing a copy of an email and they provided some background information and elevations and also put them in touch with a Walmart corporate official to talk about what they are doing there.

Mr. Fraley noted that their competitors Costco and BJ's have a gas component near or adjacent to their sites in most instances. The Commission has entertained one for BJ's and none of those gas outlets sell alcoholic beverages. He asked why the sale of alcoholic beverages is so compelling with them being in close proximity to a Walmart and near a Sam's Club that already have that feature. In response, Mr. Kleine stated that it's in response to some feedback that they

received from their customers. The convenience store is a small retail area with alcohol sales being just one small component to the convenience items they will sell, i.e. soda, water, gum, candy and etcetera.

Mr. Thomas stated that he has heard from a number of different civic leagues both close and far away about this property and most of their concerns have to do with the use being proposed. He noted that within a stone's throw of this location there is a Shell Gas Station with a convenience store almost directly across the street and a 7-Eleven less than a quarter of a mile in each direction on Tidewater Drive. The question is whether this is a use that's needed in that area. He stated that he does not believe that this is a new unique use that the neighborhood is thriving or asking for and he has heard from neighbors and from the police that these uses in that area tend to cause problems. He also noted in the renderings of the convenience store that it is a cinder block box that doesn't add anything to the area architecturally and he is having a hard time supporting this application.

Mr. Fraley echoed the aforementioned comments and noted that he has heard from three civic league presidents in the vicinity that have questioned the need for another vendor of alcoholic beverages in close proximity to so many others in that community. He further stated that he is having a hard time with this as well, particularly in light of the model of this type that the competitors, Costco and BJ's are using and they don't have that and we do have a preponderance of these type of entities that are in that general area.

There being no further comment, Mr. Newcomb stated that he will read a motion to recommend that both special exceptions be approved subject to conditions contained in the staff report and they will be taken separately.

The first application is for the convenience store 24 hours with fuel. The motion is to recommend that the special exception be approved subject to conditions contained in the staff report. The motion was denied.

The second application is for the ABC off-premise. The motion is to recommend that the special exception be approved subject to conditions contained in the staff report. The motion was denied.

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5. SWEET TEAS, for a special exception to operate an eating and drinking establishment on property located at 411 Granby Street, Suite B.

Mr. Newcomb noted that staff recommended approval of this application.

Mr. Fraley noted that there is no opposition to this application.

There being no comment, Mr. Newcomb read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, which motion was adopted.

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6. ICHIRAN JAPANESE RAMEN, for a special exception to operate an eating and drinking establishment on property located at 5720 Hoggard Road, Suite F.

Mr. Newcomb noted that staff recommended approval of this application.

Mr. Fraley noted that there is no opposition to this application and acknowledged that the applicant Mr. Li is available to answer questions.

There being no comment, Mr. Newcomb read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, which motion was adopted.

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7. WORK | RELEASE, to amend a previously granted special exception to operate an entertainment establishment with alcoholic beverages on property located at 759 Granby Street.

The purpose of this request is to modify existing floor plans and add outdoor dining.

Mr. Whitney stated that this is an amendment to their existing special exception for entertainment with alcoholic beverages. The request is to modify the entertainment establishment that they received back in November 2014. The applicant obtained a special exception in November 2014 for the original entertainment establishment and in March 2015 they obtained approval from the Architectural Review Board and Planning Commission for an encroachment for the outdoor dining portion and signage package that they applied for. They are here to amend the special exception to include the floorplan for the outdoor dining and to update the existing special exception.

Mr. Whitney noted that the hours of operation from 8 a.m. until 2 a.m., seven days a week has not changed and the entertainment options will remain the same. There will be 32 seats added outdoors and the indoor capacity will remain the same. The current plan is for an encroachment into Magazine Lane which is the alley in the rear that would leave five feet open in Magazine Lane. Staff recommends approval of the application.

The applicant, Arthur "Brother" Rutter, stated that they did have approval for an encroachment for the outdoor dining and they are back for a modification for the outdoor dining. City staff talked to them about some concerns they had with the floorplan for their outdoor dining to make sure that pedestrians could still pass through. They worked with staff and have agreed to a number of different things, which include repaving the entire street and making sure that pedestrians can still pass through the 12-foot-wide lane. They had to significantly downsize how much outdoor dining they wanted to do. He noted that they are excited to keep the project moving forward and have sent correspondence to John Ward agreeing to what the city wanted on those things. He thanked city staff for working with them through the process and stated that they hope to continue working with them on any issues that may arise.

Mr. Fraley noted the following people in support but did not wish to speak: Ms. Robyn

Thomas, representing the applicant, 913 W. 21st Street, Norfolk; Ms. Careyann Weinberg, 1019 Woodrow Avenue, Norfolk; and Mr. Paul Sharp, 110 E. Olney Road, Norfolk.

Speaking in opposition, Mr. Geoffrey Wallace, 2525 Oconee Avenue, Virginia Beach, stated that he and his brother own the remainder of the block next to the Texaco building and have purchased the neighboring retail spaces prior to the Better Block event that was held there. They were glad to see the Arts District take form and are in support of everything that's happening there. They like what Arthur Rutter has done with the Work Release and fixing the Texaco building, but cannot find themselves able to support seating in Magazine Lane at this time because they have been using that lane for years. They have used Magazine Lane since 2007 for their deliveries and it has been used for deliveries throughout the district up until Work Release came and started their work and put in a dumpster. When the dumpster went in and the sidewalks were redone and all the different intersections were put in for the different parking lots and tree planting, they were no longer able to drive down Magazine Lane. He noted that Work Release has more access to sidewalk linear footage than just about any business in downtown. The entire sidewalk is 12 feet wide and the same with the lane in the back and outdoor seating could be achieved on any of those sides; and so he reiterated his opposition to the application for outdoor seating.

Also in opposition, Mr. Paul Wallace, 2525 Oconee Avenue, Virginia Beach, stated that he and his brother are owners of 763, 765, and 767 Granby Street, which is the rest of the block north of Work Release and Magazine Lane that runs behind all of their businesses. He stated that they have actively used this paved street since 2007 and that the special exception that was approved by the Architectural Review Board had a number of irregularities in the application. It showed little of the plan, no elevations and did not show that this was an active street. He also stated that there was zero contact with them as owners or any of the other tenants who were using the street at the time. The workers of the Texaco building blocked the street with dumpsters and construction equipment and opened the street for utility work and then removed every trace of asphalt on the street leaving a muddy mess that is useless to the tenants of the other properties there. The owners of Work Release have since completed their renovations and have repaved their own parking lot while removing the asphalt from the city street that is Magazine Lane and have received a certificate of occupancy. He further stated that this has been a terrible hardship on the tenants in the area because closing this street forces delivery traffic that would normally have gone behind the building straight out onto Granby Street and would also create a public safety issue to place dining directly in the path of vehicles behind the other businesses.

Mr. Quincy Brown stated that he is a business owner of two businesses on Granby Street, The Parlor at 765 and The Beauty Parlor by Q and Company at 767. He stated that he supports what Work Release has brought to the arts district, but is not in favor of the encroachment into Magazine Lane. He noted that he has been there for four years on Granby Street and the alleyway or lane is used for delivery trucks to gain access to his businesses. His sound engineer has to load and unload at the back of the building because that's where the stage is located and one day he was blocked in for hours because another truck had parked directly behind him and he could not get out. He further stated that the encroachment has presented itself as an issue and as an inconvenience for both of his businesses.

Mr. Ed Carden, opponent, 417 Flax Mill Drive, Chesapeake, stated that the opinions

expressed by the aforementioned speakers sum up his own thoughts on this issue.

During rebuttal for the proponents, Mr. Rutter stated that the city was also concerned about the drainage plan and the concrete that everyone was concerned about being broken up behind their building is still there. He noted that the only thing that was removed from that street was the small ditch so that the utility lines could go underground. There was some gravel that did come off from the asphalt and made it look like it was loose asphalt and dirt. The drainage issue is something that they planned to address by their agreement, which was expressed to the Wallace brothers, where they will be paving the entire street and putting a drainage plan in place. The city asked them to use a Virginia licensed engineer to create a drainage plan and they will deal with the utilities and will pay for it to be repaved. The lane right behind their building is only 12 feet and behind Virginia Furniture and some of those other places it is 19 feet which is a good safe lane. He also stated that the space behind their building has not been a vibrant space for decades and that this is an important part of what they need in the arts district with outdoor dining and pedestrians moving around in the heart of the district. They have reached out to a lot of stakeholders in the area and have tried to work through this and they will continue to do so.

Mr. Fraley noted that they don't have a sign-up slip for Mr. McMurrin but offered to let him speak at this time.

Mr. Dennis (Brad) McMurrin, 4237 Manchester Road, Portsmouth, stated that he rents 763 Granby Street, which is Push Comedy Theater. He stated that he really likes what they are doing in the arts district, but also noted the same problem with the lane in the back when you have more than one vehicle back there at the same time to make deliveries. There is no access lane to get out which is a big problem.

During rebuttal for the opponents, Mr. Wallace stated that he is dumbfounded by the assertion that Magazine Lane is still there, noting that every speck of pavement on that street was either removed or covered up when the crew paved the parking lot. He also noted that every stakeholder on that block is in the audience and they can tell you that there was no contact from the applicant and that this plan moved forward as though it was a foregone conclusion that he would indeed own that street and have direct access. He also stated that he was happy to see the building renovated and that it is a beautiful building and a great addition to the arts district. He has an enormous amount of frontage on Olney Road and Granby Street. Both of those sidewalks are 12 feet wide and has more than adequate room for outdoor dining and pedestrian traffic, but not vehicular traffic. There is no precedent in the City of Norfolk for placing outdoor dining in a city street, only on sidewalks and there is more than enough room to do that. It is very difficult to back in and drive out from Wilson Road. Olney is a wider street and is a through street. The other part of Magazine Lane from Brambleton to Olney is one way and the traffic goes through the narrow part of that and it allows parking along the side of it. He stated that he supports outdoor dining on Olney Road or Granby Street, but granting this does set a dangerous precedent.

Mr. Hales stated that the road was obviously there at one point and that there must be a way that these parties can work together, especially when considering whether to allow outdoor dining between 5 p.m. and 10 p.m. at night and on the weekends when most likely they're not going to have deliveries and people who need deliveries during those hours can use the parking lot

in the back for deliveries. He further stated that there must be a way that these parties can get together and find a solution that can work for everyone instead of having people on opposite ends.

Ms. Austin stated that she concurs with the aforementioned speaker and also stated that this appears to be a very complicated issue and that she does not feel comfortable voting on with all of these issues out there that appear not to be resolved or not as clear as they may have thought to be clear in the first place. She also feels that there have been lack of communication and lack of information to some parties and that needs to be remedied and there needs to be more time on this issue.

Mr. Fraley echoed the aforementioned comments by commissioners, noting that no one on this commission wants to do anything whatsoever to undermine the progress that they've tried to initiate with the arts district. Most of the merchants and most of those who have been involved in that process now and in the past and hopefully in the future have been extremely cooperative throughout the process. He also stated that there are obviously some circumstances that haven't been dialogued sufficiently and he asked the applicants if they might have an opportunity here to have more dialogue with residents and other occupants of the adjacent building to see if they can strike a happy medium.

Mr. Rutter responded that he would love to, but the difficulty he has is that Mr. Wallace has stated, no dining.

Mr. Fraley stated that they are only asking if the applicant will take the time to dialogue with those who have opposition to the application to see if there is a happy medium that would allow for both parties to be satisfied in this regard.

Mr. Rutter responded always and stated that they have met with them before at the property and he would be happy to meet with them again anytime.

Mr. Fraley asked if those in opposition to this application are equally willing to dialogue openly as a possible solution. Mr. Wallace responded yes.

Mr. Fraley asked if the commission at this point could ask for a continuance of this application to allow for that. In response, Mr. Newcomb stated that he believes that's within their range of authority to do so.

Mr. Fraley called for a motion.

Mr. Houchins made a motion to continue the application to the next public hearing to allow for more dialogue with those on both sides of the application and the motion was seconded by Ms. Austin.

Mr. Thomas stated that he is against the motion to continue the application, noting that both sides have stated their position and he does not know that there is a reasonable amount of middle ground. He agrees that they all need to work together and, in fact, all parties have been complimentary of each other today while encouraging the use of that space back there whether it

is a walking path or a place to gather or more consistent with outdoor dining than it would be for trucks unloading.

Dr. Neumann commented that there are so many positive things happening in this district and there has been a lot of great changes and not everything is going to stay the same that it has been for so many decades. He noted that there is going to be some give and take and he believes that this is a good use for that space. He also stated in regards to the continuance that he does not feel that they will reach anything different and for that reason his vote is no.

Ms. Austin stated that she believes that everybody has in their best interest that the arts district continues to develop and flourish. She believes there is something positive to be gained from the parties speaking amongst themselves and coming up with a solution and so her vote is yes for the continuance.

Mr. Fraley stated that he, too, hopes there can be continued dialogue that will allow for the parties to work together in hopes that they can strike a happy medium that continues to grow for the arts district and his vote is yes for the continuance.

There being no further comment, Mr. Newcomb read a motion to continue the item to the public hearing to be held on July 23, 2015, which motion was adopted. Mr. Thomas and Dr. Neumann dissented.

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▪ **SAM'S EAST, INC. – Reconsideration of motion**

Mr. Thomas Kleine, attorney with Troutman Sanders LLP - 222 Central Park Avenue, Virginia Beach, stated in the spirit of the aforementioned motion and with respect to the Sam's East, Inc., application that specific points were made about alcohol sales and architecture and also references to communications from civic leagues that they haven't had an opportunity to address because they just heard about some of the concerns in the last couple of days. He asked if it was within the commission's purview to offer a reconsideration of the vote and move for a deferral of the application for 30 days so that they could work through some of those concerns and see if they can work with the staff and come back with an application that might be more favorable and more responsive to all parties.

Mr. Fraley asked the deputy city attorney if the commission is within their purview to allow that. In response, Mr. Melita stated that the commission is within their purview. He further stated that the default procedure would be for somebody on the prevailing side of the motion move to reconsider the previous vote and that motion is seconded and the motion to reconsider with majority support of the motion to reconsider, then a revote can be taken but only if the motion to reconsider is made and carried.

Mr. Fraley asked what they hope to accomplish if they are afforded the opportunity. In response, Mr. Kleine stated that it would afford him the opportunity to go back to the clients and talk to them and convey the concerns here today about the alcohol sales and see what their thoughts

are about potentially modifying that portion of the application and work with the staff and others on seeing if there are some things they can do to address the architecture. He also stated that he would like to have an opportunity to talk with some of the civic leagues and see if they can find a way to be responsive to some of their concerns and come back with something that everyone supports.

Mr. Fraley stated that since everyone voted to deny this application anyone of them can request a motion for reconsideration.

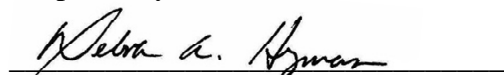
The Commission motioned for reconsideration of the prior vote on Sam's East and to allow 30 days for the applicant to consider those aspects that are against this application, which motion was made by Dr. Neumann, seconded by Mr. Hales and adopted by the Commission. Ms. Austin dissented.

Mr. Melita noted that the motion carried and Mr. Newcomb will now read the motion to continue the two special exceptions.

There being no further comments, Mr. Newcomb read a motion to continue the special exceptions until the public hearing to be held on July 23, 2015, which motion was adopted.

There being no further business to discuss, the meeting adjourned at 3:55 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "Debra A. Hyman", is written over a horizontal line.

Debra A. Hyman

Deputy City Clerk/Stenographic Reporter